



## Fax Cover Sheet

235 MAY 31 AM 9:10

RECEIVED  
CENTRAL FAX CENTER

MAY 24 2005

FedEx Kinko's of 3471 BEVERLY#102 BLD LA, CA 90048 Telephone: (323) 782-6905 Fax: (323) 782-6906

Date May 24, 2005 Number of pages \_\_\_\_\_ (including cover page)To: I. Dingle, Patents Examiner From:Name Office of Patents Repl. Name Patrick SmithCompany For Patent examination Policy Company Patent # 5,598,947Telephone \_\_\_\_\_ Telephone 310 260 3171Fax 703 872 9306

Comments

RECEIVED

JUN 01 2005

OFFICE OF PETITIONS

May 23, 2005

235 MAY 31 AM 9:10

Patrick Smith  
12335 Santa Monica Blvd  
Los Angeles, CA 90025  
310 280 3171

Congressman Henry A. Waxman  
U.S. House of Representatives  
Washington, DC 20515-0529

Mr. Nathan Smith

Re: Patent No. 5,598,947

Maintenance fee

RECEIVED

JUN 01 2005

OFFICE OF PETITIONS

Dear Mr. Smith:

Enclosed is copy of letter addressed to Patent Office Commissioner Nicholas P. Godici regarding this question of paying a maintenance on time. Which I did on Feb 5, 2005

The problem is that the Patent Office shows the payment received on Feb 14, 2005 which does not take into account that the payment was deposited to the mail on Feb 5, 2005 as previously discussed in letter to Patent Commissioner Godici dated July 19, 2004 and as allowed in Patent Office Proceedings re. Deposit to US mail same as receipt at the PTO

Both the letter to the Commissioner, that requested notice if not correct, and a reference to mail deposit as receipt (enclosed herewith)

The Patent Office is treating this as "a late payment" it is not, the payment was timely.

I will fax this letter to the proper person of concern at the Patent Office this morning and if you will please fax a copy to your liaison person perhaps this will resolve the problem. At the Patent Office, to Commissioner Godici include July 19, 2003 letter to him

And to, Mr. Irvin Dingle  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner,  
for Patent Examination policy

Fax: 703 872 9306  
Attn: Office Of Petitions

Nathan, thanks very much, and thank Congressman Waxman.

Sincerely,

Patrick Smith



## UNITED STATES PATENT AND TRADEMARK OFFICE

2005 MAY 31 AM 9:10

 COMMISSIONER FOR PATENTS  
 UNITED STATES PATENT AND TRADEMARK OFFICE  
 P.O. BOX 1480  
 ALEXANDRIA, VA 22313-1480  
 www.uspto.gov

Paper No. 22

 PATRICK SMITH  
 12335 SANTA MONICA BLVD.  
 LOS ANGELES, CA 90025

COPY MAILED

MAR 24 2005

OFFICE OF PETITIONS

ON PETITION

RECEIVED

JUN 01 2005

OFFICE OF PETITIONS

 In re Patent No. 5,598,947  
 Issue Date: February 4, 1997  
 Application No. 08/377,449  
 Filed: January 24, 1995  
 Patentee: Patrick Smith

## REQUIREMENT FOR INFORMATION

A petition was filed on February 14, 2005 which is being treated as a petition under 37 CFR 1.378(c) to accept the delayed payment of a maintenance fee for the above-identified patent.

A decision on this petition will be held in abeyance for a period of **TWO MONTHS** from the date of this communication to permit petitioner to address the following issues before a decision is rendered. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b).

This patent issued on February 4, 1997. Accordingly, the grace period for paying the second maintenance fee expired at midnight on February 4, 2005. Therefore, this petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

Effective December 8, 2004, the fee for the 7 1/2 years Patent Maintenance Fee increased to \$1150 and the surcharge fee remain at \$1640. Petitioner submitted \$1110 with the petition filed on February 14, 2005, which leaves a balance of \$1680.

The response to this Requirement for Information should include a cover letter entitled "Response to Requirement for Information."

*Mistake — deposited to  
mail 2/5/05  
See letter to Comm +  
Post allow*

At the end of the two month period specified above, a decision will be rendered on the instant petition under 37 CFR 1.378 as supplemented by any information submitted in response to this Requirement for Information.

May 23, 2005

2005 MAY 31 AM 9:10

Patrick Smith  
12335 Santa Monica Blvd  
Los Angeles, CA 90025  
310 280 3171Patent and Trademark Office  
2121 Crystal Drive  
Arlington, VA 22202Nicholas P. Godici,  
Commissioner for Patents

Re: Patent No. 5,598,947

Maintenance fee

RECEIVED

JUN 01 2005

OFFICE OF PETITIONS

Dear Commissioner Godici:

I went to LA Airport Post Office and purchased postal money orders for \$1,000 - \$110. \$1,110 for maintenance fee as required, and mailed same at 10:45 pm February 5, 2005

Enclosed is copy of letter to you dated July 19, 2004 describing my intention to do this and requesting that I be informed if this was not acceptable. No notice-objection received

Also enclosed is copy of Chapter 2, Proceedings in the PTO Sec #21 "Filing date and day for taking action re. deposited with US Postal Service" same as receipt at the PTO

Also enclosed are copies of the two money orders, and the post office money order sheets showing #07977426221 and #07977426232 and signature of Post Office Supervisor that confirms this as the two purchased by me at 10:45 pm February 5, 2005 (see Potter letter)

Also enclosed is copy of letter to Postmaster Potter letter, that describes the tracing of the money orders, when informed the PTO showed maintenance fee received, Feb 14, 2005

I believed, based on my letter to you describing my intention to do just this described and the described mail deposit provision, and my having deposited PTO items to mail before, that I had complied with payment of the maintenance fee, and in timely manner required.

Admittedly I have been pre-occupied with a recently diagnosed lung disease problem, but based on the letter to you and my depositing postal money orders to the mail as described in the letter that requested "notice if not correct", that I was in compliance and on time.

Sincerely,

  
Patrick Smith

2005 MAY 31 AM 9:10

July 19, 2004

Patrick Smith  
12335 Santa Monica Blvd  
Los Angeles, CA 90025

Patent and Trademark Office  
2121 Crystal Drive  
Arlington, VA 22202  
Nicholas P. Godici,  
Commissioner for Patents

RECEIVED

JUN 01 2005

OFFICE OF PETITIONS

Re: Patent No. 5,598,947

date of patent, Feb 4, 1997

Dear Commissioner Godici:

With regard to maintenance fees, my patent comes up for 7.5 years fee August 5, 2004

I am told that I can defer payment of the fee for 6 months, by paying a late payment of \$65.00 within 6 months, February 5, 2005

My concern is whether or not that is correct.

If not correct, would someone please inform me, or if correct would someone inform me, I would greatly appreciate it.

Sincerely,

Patrick Smith

**PATENT AND TRADEMARK OFFICE Pt. I**

is decision is  
ig sentence.  
deployment  
st and meth-  
ent decision.  
s, a compari-  
analysis con-  
ation master  
formation as  
ssary.

New Obli-  
ademark Of-  
new contract.  
lement a key  
ed in subsec-  
of 90 calen-  
th respect to  
is submitted

sections (b)  
ry 1, 1987."

ual Commit-  
ark Fee Col-  
it and Trade-

103(c), Nov.  
rovided that:

"The Secretary of Commerce shall, on the day on which the President submits the annual budget to the Congress, provide to the Committees on the Judiciary of the Senate and the House of Representatives—

"(1) a list of patent and trademark fee collections by the Patent and Trademark Office during the preceding fiscal year;

"(2) a list of activities of the Patent and Trademark Office during the preceding fiscal year which were supported by patent fee expenditures, trademark fee expenditures, and appropriations;

"(3) budget plans for significant programs, projects, and activities of the Office, including out-year funding estimates;

"(4) any proposed disposition of surplus fees by the Office; and

"(5) such other information as the committees consider necessary."

Similar provisions were contained in the following prior Appropriation Act:

Pub.L. 99-607, § 3(c), Nov. 6, 1986, 100 Stat. 3471.

**CROSS REFERENCES**

all Departments, relating to time of making annual A § 2952.

**LIBRARY REFERENCES**

ic No. 291.

to 178.

42.

orms L Ed § 52:1.

1 Litigation in Federal Courts § 65.15.

**AW ELECTRONIC RESEARCH**

owing the Explanation pages of this volume.

§ 13]

42

**CHAPTER 2—PROCEEDINGS IN THE PATENT AND TRADEMARK OFFICE**

Sec.

21. Day for taking action falling on Saturday, Sunday, or holiday.<sup>1</sup>
22. Printing of papers filed.
23. Testimony in Patent and Trademark Office cases.
24. Subpoenas, witnesses.
25. Declaration in lieu of oath.
26. Effect of defective execution.

<sup>1</sup> Section catchline amended by Pub.L. 97-247 without corresponding amendment of chapter analysis.

**HISTORICAL AND STATUTORY NOTES****Amendments**

1975 Amendments. Pub.L. 93-596, § 1, Jan. 2, 1975, 88 Stat. 1949, substituted "Patent and Trademark Office" for "Patent Office" in chapter heading and in item 23.

1964 Amendments. Pub.L. 88-292, § 2, Mar. 26, 1964, 78 Stat. 171, added items 25 and 26.

**WESTLAW COMPUTER ASSISTED LEGAL RESEARCH**

WESTLAW supplements your legal research in many ways. WESTLAW allows you to

- update your research with the most current information
- expand your library with additional resources
- retrieve current, comprehensive history citing references to a case with KeyCite

For more information on using WESTLAW to supplement your research, see the WESTLAW Electronic Research Guide, which follows the Explanation.

RECEIVED

JUN 01 2005

OFFICE OF PETITIONS

**§ 21. Filing date and day for taking action**

(a) The Director may by rule prescribe that any paper or fee required to be filed in the Patent and Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service or would have been deposited with the United States Postal Service but for postal service interruptions or emergencies designated by the Director.

(b) When the day, or the last day, for taking any action or paying any fee in the United States Patent and Trademark Office falls on Saturday, Sunday, or a federal holiday within the District of Colum-

43



JUN 01 2005 9:10

INQUIRY SECTION

May 17, 2005



PATRICK SMITH

12335 SANTA MONICA BLVD  
LOS ANGELES, CA 90025-2519

ILN: H5060360065656

Dear Postal Customer:

A copy of the money order per your PS Form 6401 Money Order Inquiry is below.

07977426221		2005-02-05	950091	1100000000
ONE THOUSAND DOLLARS & 00¢		*****		
Commissioner for Patents		NEGOTIABLE ONLY IN THE U.S. AND POSSESSIONS		
P.O. Box 1450		FROM: Patrick Smith		
Alexandria VA 22313-1450		DATE: 05/15/05		
L.A. CA 90025		ADDRESS: 12335 Santa Monica Blvd		
000000000000		07977426221		000000000000

RECEIVED

JUN 01 2005

OFFICE OF PETITIONS

043000261		081000045
2/04-099	0222005	AM 2005
0000415355	2510000000	0000000000

If you have any additional concerns or questions, write to us at the address indicated below and enclose a copy of your customer receipt and this letter.

ATTN IMAGING SERVICES  
ACCOUNTING SERVICE CENTER  
MONEY ORDER BRANCH  
PO BOX 82428  
ST. LOUIS, MO 63182-2428

1-866-974-2733

Batch: 171846

Print Date: 20050517

Page: 51888



INQUIRY SECTION

May 17, 2005



PATRICK SMITH

12335 SANTA MONICA BLVD  
LOS ANGELES, CA 90025-2519

ILN: H5060360065655

Dear Postal Customer:

A copy of the money order per your PS Form 6401 Money Order Inquiry is below.

07977426232		2005-02-05	980091	001108000
ONE HUNDRED TEN DOLLARS & 00/100				
Commissioner for Patents		ISSUABLE ONLY IN THE U.S. AND POSSESSIONS (SEE REVERSE WARNING)		
P.O. Box 1450		FROM: Patrick Smith 0035		
Alexandria, VA		ADDRESS: 12335 Santa Monica Blvd		
L.A. CA 90025				
000000000000		07977426232		000000000000

02-22-05 0371611 1651063 3 021 28 24

DEPOSIT TO ACCOUNT OF  
RETURN MAILED PAYEE  
WITHOUT PROPER ASSESSMENT  
OF ENDORSEMENT GUARANTEED  
MELLON BANK MCBG POMA

043000261  
5150-00 0222005  
0600415354

001000045  
0310005  
3610055655

If you have any additional concerns or questions, write to us at the address indicated below and enclose a copy of your customer receipt and this letter.

ATTN IMAGING SERVICES  
ACCOUNTING SERVICE CENTER  
MONEY ORDER BRANCH  
PO BOX 82428  
ST. LOUIS, MO 63182-2428

1-866-974-2733

Batch: 171648

Print Date: 20050517

Page: 51887

May 9, 2005

Patrick Smith  
12335 Santa Monica Blvd  
Los Angeles, CA 90025  
310 280 3171

John E. Potter  
U.S. Postmaster General  
475 L'Enfant Plaza SW  
Washington, DC 20260-0500

RECEIVED  
JUN 01 2005  
OFFICE OF PETITIONS

Re: Jacqueline Shoemake, Supervisor  
L.A. Airport Post Office, 90009

Dear Postmaster General Potter:

I am writing with regard to the excellent customer service I received concerning my problem of having lost confirmation of mailing US Patent Office fee on the deadline.

Without any evidence of having mailed the required maintenance fee on time. I was subject to having the patent on a Microwave Vending machine going 'abandoned' I had lost the certified mail green card and could now very well lose the U.S. Patent.

Ms. Shoemake went thru back records until she found the clerk's record of payment. \$1,110.00 February 5, 2005 approximately 10:45 pm Exactly the time I told her. She then gave me the forms to complete that would retrieve a copy of the green card showing receipt by the Patent Office and the time of mailing and thereby compliance. This very gracious and very competent lady is certainly a tribute to the postal service.

I cannot adequately express my gratitude for such professional service. I compliment you on the operation of the U.S. Postal Service. The American public is well served.

Most respectfully,

Patrick Smith

c: President George W. Bush